

MAGISTRATE JUDGE

12-CR-05183-ORD

FILED	LODGED
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AUG 27 2012	
CLERK U.S. DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT TACOMA	

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CLIFFORD J. BEMIS,

Defendant/Petitioner.

NO. CR12-5183

FINDINGS AND ORDER ACCEPTING
DEFENDANT FOR DEFERRED
PROSECUTION, APPROVING
TREATMENT PLAN, AND DIRECTING
DEFENDANT TO TAKE TREATMENT
AS PRESCRIBED

(Clerk's Action Required)

THIS MATTER, coming on for hearing this 27th day of August, 2012 upon the defendant's Petition for Deferred Prosecution; the defendant appearing in person and by his attorney, John Carpenter, Assistant Federal Public Defender; the United States of America being represented by Barbara Sievers, Assistant United States Attorney; the Court, having examined and incorporated into the record Petitioner's Petition and Statement in support of deferred prosecution, the evaluation and treatment report prepared by Alternatives Professional Counseling, Inc., and the files and records herein, being fully advised in the premises, does now make and enter the following:

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I. FINDINGS OF FACT

A. On or about the 22nd day of March, 2012, Petitioner was charged with the offense/offenses charged in the Information. This offense occurred as a direct result of alcoholism/chemical dependency problems;

B. Petitioner suffers from an alcohol/drug problem and is in need of treatment;

C. The probability of similar misconduct in the future is great if the problem is not treated;

D. Petitioner is amenable to treatment;

E. An effective rehabilitative treatment plan is available to Petitioner through Northwest Resources II, Inc., an approved treatment facility as designated by the laws of the State of Washington, and Petitioner agrees to be liable for all costs of this treatment program. Petitioner understands, however, that should he be unable to afford the costs of treatment, it is possible that funds could be made available through the United States Probation Office;

F. That Petitioner agrees to comply with the terms and conditions of the program offered by the treatment facility and that Petitioner agrees to be liable for all costs of this treatment program, with the qualification that he could petition the Court and the United States Probation Office for funding, should he be unable to afford the costs of treatment;

G. That Petitioner has knowingly and voluntarily stipulated to the admissibility and sufficiency of the facts as contained in the written police report attached to Statement of Petitioner filed herewith.

H. That Petitioner has acknowledged the admissibility of the stipulated facts in any criminal hearing or trial on the underlying offense or offenses held subsequent to revocation of this Order Granting Deferred Prosecution and that these reports will be used to support a finding of guilt;

From the foregoing FINDINGS OF FACT, the Court draws the following:

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II. CONCLUSIONS OF LAW

A. That the above-entitled Court has jurisdiction over the subject matter and
Petitioner Clifford Bemis, in this case;

B. That Petitioner's Petition for Deferred Prosecution meets the requirements of
RCW 10.05 et seq.;

C. That the diagnostic evaluation and commitment to treatment meets the
requirements of RCW 10.05.150;

D. That Petitioner is eligible for deferred prosecution.

III. ORDER

Having made and entered the foregoing FINDINGS OF FACT and CONCLUSIONS
OF LAW, it is hereby

ORDERED that the defendant is accepted for deferred prosecution. The prosecution
of the above-entitled matter is hereby deferred for five (5) years pursuant to RCW 10.05 et
seq., upon the following terms and conditions:

A. Petitioner shall be on probation for the deferral period and follow the rules and
regulations of probation;

B. Petitioner shall enroll in and successfully complete the two-year treatment
program recommended by Alternatives Professional Counseling, Inc., according to the terms
and conditions of that plan as outlined in the diagnostic evaluation, a true copy of which is
attached to the Petition and incorporated herein by reference. Petitioner shall obtain
treatment from Northwest Resources II, Inc., and shall not change treatment agencies
without prior Probation approval;

C. The treatment facility, Northwest Resources Inc., II, shall file with the United
States Probation Office status reports of Petitioner's compliance with treatment, monthly
during the first year of the deferred prosecution period and every three (3) months during the
second year. The Court may increase the frequency of these reports at its discretion;

1 D. Petitioner shall notify U.S. Probation within 72 hours of any residence change.

2 E. Petitioner shall abstain during the deferred prosecution period from any and all
3 consumption of alcoholic beverages and/or non-prescribed mind-altering drugs;

4 F. Petitioner shall not operate a motor vehicle on the public highways without a
5 valid operator's license and proof of liability insurance sufficient to comply with the state
6 laws on financial responsibility;

7 G. Petitioner shall be law abiding and shall not commit any alcohol/drug related
8 offenses or other criminal offenses during the period of deferral;

9 H. Petitioner shall notify U.S. Probation within 72 hours of being arrested,
10 questioned, or cited by Law Enforcement;

11 I. In the event that Petitioner fails or neglects to carry out and fulfill any term or
12 condition of his treatment plan or violates any provision of this Order or any rule or
13 regulation of his probation officer, upon receiving notice, the Court shall hold a hearing to
14 determine why Petitioner should not be removed from deferred prosecution and prosecuted
15 for the offense/offenses charged;

16 J. In the event the Court finds cause to revoke this deferred prosecution, the
17 stipulated police reports shall be admitted into evidence, and Petitioner shall have his guilt or
18 innocence determined by the Court;

19 K. That the statement of Petitioner for Deferred Prosecution shall remain sealed,
20 and all subsequent reports or documents relating to his treatment information shall be sealed,
21 to maintain confidentiality of Petitioner's treatment information;

22 L. That the Department of Licensing be notified of this Order accepting the
23 Petitioner for deferred prosecution;

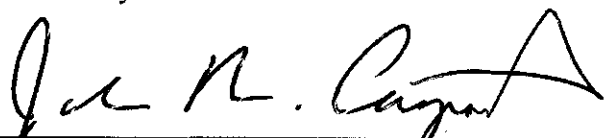
24 M. Upon proof of Petitioner's successful completion of a five-year deferral period
25 in this Order, the Court shall dismiss the charges pending against Petitioner.
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1 N. Additional conditions: _____

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5 DONE IN OPEN COURT this 27th day of August, 2012.


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9 UNITED STATES MAGISTRATE JUDGE

10 Presented by:

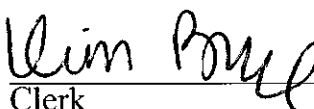
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12 _____
13 JOHN R. CARPENTER
14 Attorney for Petitioner

15 I have received a copy of the foregoing Order of Deferred Prosecution. I have read
16 and understand its contents, and agree to abide by the terms and conditions set forth herein.

17 DATED: August 27, 2012

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19 _____
20 CLIFFORD J. BEMIS
21 Petitioner

22 I certify that a copy of this signed Order was mailed to the subject treatment facility,
23 on August 28th, 2012. The United States Probation Office was also furnished a copy of
24 this Order.

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Clerk